

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF IOWA
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MARCHELLO REMBERT,

Defendant.

No. CR15-2038-LRR

ORDER

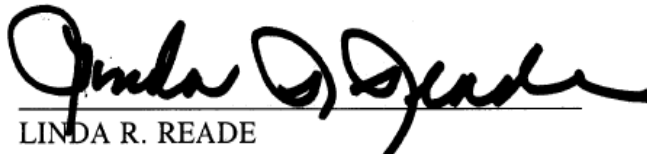
This matter comes before the court on the defendant's pro se motion for acquittal or new trial (docket no. 103). The defendant filed such motion on February 4, 2016.

The defendant filed his motion for acquittal or new trial while represented by counsel. This is impermissible. The defendant does not have a constitutional right to hybrid representation, that is, the defendant must either choose to proceed pro se or choose to utilize the full assistance of counsel who would present his defense. *See United States v. Swinney*, 970 F.2d 494, 498 (8th Cir. 1992); *see also United States v. Lewis*, 738 F.2d 916, 924 (8th Cir. 1984) (stating "[a] defendant in a criminal case does not have a constitutional right both to represent himself and to be represented by counsel" (citing *United States v. Olson*, 576 F.2d 1267, 1270 (8th Cir. 1978))); *United States v. Williams*, 534 F.2d 119, 123 (8th Cir. 1976) (stating "a criminal defendant has a right to represent himself or, alternatively, to be represented by counsel" (citing *Faretta v. California*, 422 U.S. 806, 95 S. Ct. 2525, 45 L. Ed. 2d 562 (1975))); *cf. United States v. Blum*, 65 F.3d 1436, 1443 n.2 (8th Cir. 1995) (noting it is Eighth Circuit policy to refuse to consider pro se filings when a party is represented by counsel (citing *Hoggard v. Purkett*, 29 F.3d 469, 472 (8th Cir. 1994))). Because he is currently being represented by Christopher J. Nathan, the court need not address the instant motion. Moreover, defense counsel already filed a

motion for acquittal or new trial. Accordingly, the defendant's pro se motion for acquittal or new trial (docket no. 103) is denied without prejudice. The clerk's office is directed to send a copy of this order to the defendant.

IT IS SO ORDERED.

DATED this 5th day of February, 2016.



LINDA R. READE
CHIEF JUDGE, U.S. DISTRICT COURT
NORTHERN DISTRICT OF IOWA